IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9427 OF 2004

Mr.M.M.Sathaye for the Petitioner.
Mr.M.S.Karnik for Respondents Nos. 2 to 6.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 14th September,2005
	P.C.:
	Rule. Returnable forthwith. Heard finally by consent of parties.
	2. By the order impugned in the petition the trial court has rejected the application made for amendment in the plaint. Admittedly, the Defendants have not filed any written statement. If the Defendants have not filed any written statement, there is no question of any prejudice being caused to the Defendant by allowing the amendments. Even if the

amendment is allowed, the Defendants can raise all their defences in relation to the plaint including the amended portion while filing the written statement. The power of the court to allow the amendment in the pleadings has to be liberally exercised for advancing justice. For all these reasons, in my opinion, the trial court was not justified in rejecting the application for amendment filed by the Plaintiff.

3. In the result, therefore, the petition succeeds and is allowed. The application at Exh.26 on the record of Regular Civil Suit No.330 of 2002 is granted.

Rule made absolute with no order as to costs.

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